

of any cellar treatment necessary to put the wine in merchantable condition, who does not intend to produce wine, or use spirits, or receive wine in bond may be exempted from qualifying as the proprietor of the wine premises upon filing with the appropriate ATF officer a statement to that effect, a copy of a foreclosure action, or a copy of the court order directing the liquidation of the business, and, if the wine premises is covered by a bond, a consent of surety wherein the surety and the fiduciary agree to remain liable on the bond. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512-0058)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-312, 56 FR 31077, July 9, 1991; T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

§ 24.126 Change in proprietorship involving a bonded wine warehouse.

Where a bonded wine warehouse has been established on wine premises and it is desired to continue the operation of the bonded wine warehouse subsequent to a change in the proprietorship of the bonded winery or bonded wine cellar, the proprietor of the bonded wine warehouse shall file a letter application, accompanied by an affirming statement from the new proprietor of the bonded winery or bonded wine cellar, requesting the continuation of the bonded wine warehouse and also file evidence of sufficient bond coverage. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

(Approved by the Office of Management and Budget under control number 1512-0058)

§ 24.127 Adoption of formulas.

The adoption of approved formulas by a successor proprietor will be in the form of an application, filed with the appropriate ATF officer. The application will list the formulas for adoption by formula number, name of product, and date of approval. The application will clearly show that the outgoing proprietor has authorized the successor proprietor's use of the approved for-

mulas. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512-0058)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

§ 24.128 Continuing partnerships.

If, under the laws of the particular State, the partnership is not terminated upon the death or insolvency of a partner but continues until the dissolution of the partnership is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the wine premises under the prior qualification of the partnership, provided a consent of surety is filed wherein the surety and the surviving partner agree to remain liable on any bond covering the bonded wine premises. A surviving partner who acquires the business on completion of the dissolution of the partnership shall qualify from the date of acquisition, as provided in § 24.125(a). The rule set forth in this section will also apply where there is more than one surviving partner. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512-0058)

§ 24.129 Change in location.

Where there is a change in the location of wine premises, the proprietor shall file an amended application and an application for amendment of the basic permit, if any, and if a bond has been filed, either a new bond or a consent of surety. Operation of wine premises may not be commenced at the new location prior to approval of the amended application and issuance of any amended permit. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512-0058)

§ 24.130 Change in volatile fruit-flavor concentrate operations.

If the proprietor desires to make any change in the process employed to

§ 24.131

27 CFR Ch. I (4–1–04 Edition)

produce volatile fruit-flavor concentrate and the change affects the accuracy of the description of process included in the application, the proprietor shall file an amended application to include the amended or new process. The new or changed process may not be used prior to approval of the amended application. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5511))

(Approved by the Office of Management and Budget under control number 1512–0058)

§ 24.131 Change in building construction and use of premises.

Where a change is to be made to buildings located on wine premises, or in the use of any portion of the wine premises, which affects the accuracy of the application, the proprietor shall, before making such change in construction or use, submit a notice to the appropriate ATF officer. The notice will describe the proposed change in detail. The proprietor shall include the change covered by the notice in the next amended ATF F 5120.25 required to be filed, unless the appropriate ATF officer requires immediate amendment. (Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

(Approved by the Office of Management and Budget under control number 1512–0058)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31077, July 9, 1991; T.D. ATF–409, 64 FR 13685, Mar. 22, 1999]

ALTERNATION

§ 24.135 Wine premises alternation.

(a) *General.* The proprietor of a bonded winery or bonded wine cellar may alternate all or a portion of wine premises for use as a taxpaid wine bottling house or use as taxpaid wine premises. The proprietor may also alternate the use of adjacent or contiguous premises qualified under 26 U.S.C. chapter 51 (distilled spirits plant, brewery, etc.) for use as wine premises or *vice versa*. If a proprietor of a bonded wine cellar or winery wishes to use all or a portion of such premises alternately as a volatile fruit-flavor concentrate plant or *vice-versa*, the proprietor must comply with the requirements of §§ 18.40 through 18.43 of this title.

(b) *Qualifying documents.* Where the proprietor desires to alternate bonded wine premises as taxpaid wine bottling house premises or taxpaid wine premises, or other premises qualified under 26 U.S.C. chapter 51, the following qualifying documents will be filed:

(1) A statement on the application ATF F 5120.25 that an alternation of wine premises will occur;

(2) Evidence of existing bond, consent of surety, or a new bond covering the alternation;

(3) A description of how taxpaid wine or spirits, or untaxpaid wine or spirits will be identified and segregated; and

(4) Any other document or additional information the appropriate ATF officer may require.

(c) *Alternation.* After the necessary qualifying documents have been approved by the appropriate ATF officer, the proprietor may alternate wine premises as described in the application. Any portion of wine premises on which taxpaid wine is located will be considered taxpaid wine premises or taxpaid wine bottling house premises and any portion of the premises on which wine not identified as taxpaid is located will be considered bonded wine premises. The proprietor shall, prior to the initial alternation of the premises, identify by portable signs or tags, or by any other method or manner satisfactory to the appropriate ATF officer, either all taxpaid wine on taxpaid wine premises or taxpaid wine bottling house premises or all untaxpaid wine on bonded wine premises.

(d) *Segregation.* The proprietor shall keep untaxpaid wine or spirits physically separated from taxpaid wine or spirits and on the designated premises. This separation will be by use of tanks, rooms, buildings, partitions, pallet stacks, or complete physical separation, or by any other method or manner which will clearly and readily distinguish untaxpaid wine or spirits from taxpaid wine or spirits and is satisfactory to the appropriate ATF officer. Where necessary for the protection of the revenue or enforcement of 26 U.S.C. chapter 51, the appropriate ATF officer may require that the portions of wine premises alternated under this section be separated by partitions or otherwise.